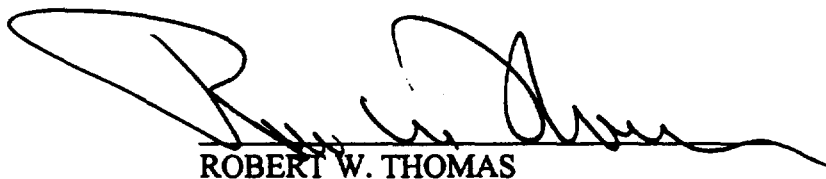


DECLARATION

ROBERT W. THOMAS declares as follows:

1. My name is Robert W. Thomas and I am an employee of Southwestern Bell Telephone Company. I was requested to supply certain information in responses to interrogatories propounded by Complainant YP-USA, Ltd. d/b/a The SunShine Pages, in the Federal Communications Commission matter of "YP-USA, Ltd. d/b/a The SunShine Pages v. Southwestern Bell Telephone Company," File No. E-99-07.
2. I provided information for interrogatories nos. 2 though 3.
3. I have reviewed the above response to interrogatories nos. 2 through 3, and I affirm that the responses are true and correct.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 1999.



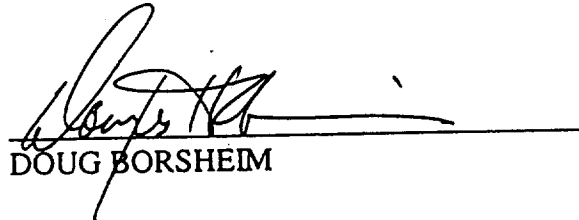
ROBERT W. THOMAS

DECLARATION

DOUG BORSHEIM declares as follows:

1. My name is Doug Borsheim and I am an employee of Southwestern Bell Telephone Company. I was requested to supply certain information in responses to interrogatories propounded by Complainant YP-USA, Ltd. d/b/a The SunShine Pages, in the Federal Communications Commission matter of "YP-USA, Ltd. d/b/a The SunShine Pages v. Southwestern Bell Telephone Company," File No. E-99-07.
2. I provided information for interrogatory no. 5.
3. I have reviewed the above response to interrogatory no. 5, and I affirm that the response is true and correct.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 26, 1999.


DOUG BORSHEIM

DECLARATION

CAROL A. LAURENTIUS declares as follows:

1. My name is Carol A. Laurentius and I am an employee of Southwestern Bell Telephone Company. I was requested to supply certain information in responses to interrogatories propounded by Complainant YP-USA, Ltd. d/b/a The SunShine Pages, in the Federal Communications Commission matter of "YP-USA, Ltd. d/b/a The SunShine Pages v. Southwestern Bell Telephone Company," File No. E-99-07.
2. I provided information for interrogatory no. 8.
3. I have reviewed the above response to interrogatory no. 8, and I affirm that the response is true and correct.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 26, 1999.


CAROL A. LAURENTIUS

DECLARATION

DENISE C. ORTMANN declares as follows:

1. My name is Denise C. Ortmann and I am an employee of Southwestern Bell Telephone Company. I was requested to supply certain information in responses to interrogatories propounded by Complainant YP-USA, Ltd. d/b/a The SunShine Pages, in the Federal Communications Commission matter of "YP-USA, Ltd. d/b/a The SunShine Pages v. Southwestern Bell Telephone Company," File No. E-99-07.
2. I provided information for interrogatories nos. 4 through 10.
3. I have reviewed the above response to interrogatories nos. 4 through 10, and I affirm that the responses are true and correct.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 26, 1999.

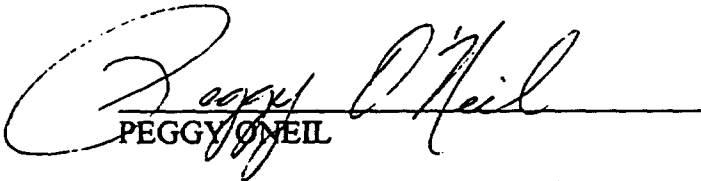

DENISE C. ORTMANN

DECLARATION

PEGGY ONEIL declares as follows:

1. My name is Peggy O'Neil and I am an employee of Southwestern Bell Telephone Company. I was requested to supply certain information in responses to interrogatories propounded by Complainant YP-USA, Ltd. d/b/a The SunShine Pages, in the Federal Communications Commission matter of "YP-USA, Ltd. d/b/a The SunShine Pages v. Southwestern Bell Telephone Company," File No. E-99-07.
2. I provided information for interrogatory no. 4.
3. I have reviewed the above response to interrogatory no. 4, and I affirm that the response is true and correct.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 26, 1999.


PEGGY ONEIL

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on November 24, 1998

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
John B. Daly
Thomas J. Dunleavy
James D. Bennett

- CASE 94-C-0095 - Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market.
- CASE 95-C-0657 - Joint Complaint of AT&T Communications of New York, Inc., MCI Telecommunications Corporation, WorldCom Inc. d/b/a LDDS WorldCom and the Empire Association of Long Distance Telephone Companies, Inc., Against New York Telephone Company Concerning Wholesale Provisioning of Local Exchange Service by New York Telephone Company and Sections of New York Telephone's Tariff No. 900.
- CASE 91-C-1174 - Proceeding on Motion of the Commission Regarding Comparably Efficient Interconnection Arrangements for Reconsideration and Business Links.
- CASE 96-C-0036 - Complaint of AT&T Communications of New York, Inc., Against New York Telephone Company Concerning AT&T's Request for collocated "cages" to be provided by New York Telephone Pursuant to its Optical Transport Interconnection Service II ("OTIS-II") Tariff.
- CASE 90-C-0075 - Proceeding on Motion of the Commission to Review Issues Concerning Privacy in Telecommunications.

ORDER RESOLVING PETITIONS FOR REHEARING
AND CLARIFICATION OF JULY 22, 1998
ORDER REGARDING DIRECTORY DATABASE ISSUES
AND DIRECTING REFILEING OF TARIFFS.

(Issued and Effective January 7, 1999)

CASE 94-C-0095, et al.

BY THE COMMISSION:

BACKGROUND

On July 22, 1998, the Commission issued an Order Regarding Directory Database Issues (July 22, 1998 Order or the Order) in Cases 94-C-0095, 95-C-0657, 91-C-1174 and 96-C-0036. Petitions for rehearing or clarification of the Order were filed on August 28, 1998 by AT&T Communications of New York, Inc. (ATT), New York State Telecommunications Association, Inc. (NYSTA) and New York Telephone Company, d/b/a Bell Atlantic-New York (BA). On September 14, 1998, Reply and Response papers were filed by BA, ATT and INFONXX, Inc. (INFONXX). Comments on the petitions for rehearing were filed by White Directory Publishers, Inc. and Yellow Book USA L.P. (White and Yellow Book) on November 12, 1998 and by the Association of Directory Publishers (ADP) on November 13, 1998.

BA, ALLTEL New York, Inc. (ALLTEL), Citizens Telecommunications Company of New York, Inc. (Citizens), Frontier Telephone of Rochester, Inc. (FTR) and NYSTA filed tariff revisions in response to the Order.

On October 16, 1998, INFONXX, Inc. filed a motion for expedited review of BA's tariff filing. Metro One Telecommunications Inc. (Metro One) filed comments on BA's tariff filing on October 30, 1998. On November 2, 1998, BA and NYSTA filed replies to the INFONXX motion. INFONXX filed a response to BA's reply on November 12, 1998.

THE COMMISSION'S ORDER

The Commission's Order required local exchange companies (LECs) to provide access to their directory databases to all companies that request access for the purpose of publishing a directory or providing directory assistance services. Every LEC was required to provide access on the same terms as it provides access to its own directory publisher or directory assistance (DA) provider. Each LEC was directed to provide access to its database at a price that is cost-based and

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nondiscriminatory. Pricing issues were referred to the Network Elements Proceeding in Cases 94-C-0095, 95-C-0657, 91-C-1174 and 96-C-0036. LECs were directed to file tariff amendments with the terms and conditions of their directory database access offering consistent with the Order. The tariffs were to be effective on a temporary basis with permanent rates to be set in the Network Elements Proceeding.

PETITIONS FOR REHEARING/CLARIFICATION

Bell Atlantic

In its petition for rehearing, BA argues that a LEC should not be required to provide access to its database to companies that are not telecommunications carriers because Section 251(c)(3) of the Telecommunications Act of 1996 (the Act) does not require it. BA notes that section 251 limits the provision of unbundled network elements to telecommunications carriers to be used for providing telecommunications service.

BA cites the FCC's decision in *INFONXX v. NYNEX*¹, in which the FCC rejected the request of INFONXX for access to BA's DA database on the ground that it was neither a provider of telephone exchange service nor a provider of telephone toll service, under Section 251(b)(3) of the Act.

BA argues that the Order's terms regarding non-carriers are not authorized by the Public Service Law (PSL) because sale of directories to a third party is not an essential public service.

BA also argues that rates for sale of directory listings should be negotiated between the parties and not tariffed, as provided in the Order. BA disagrees with the Order's directive that rates for sale of directories be cost-based. It contends that the cost-based rate requirements of Section 252(d) of the Act only apply to unbundled network elements provided to telecommunications carriers. BA argues that

¹ *INFONXX v. NYNEX*, Memorandum Opinion and Order, DA 98-961, Rel. May 27, 1998, par. 11-12.

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since non-carriers have no limitations on their rates or terms and conditions for their directories, cost-based restrictions on LECs are inappropriate. BA continues that providing directory listings (DL) to non-carriers is governed by Section 222(e) of the Act, which requires that charges be set at reasonable levels, but, it argues, not cost-based levels. BA argues that Congress did not intend that pricing for subscriber listing information would be based only on costs. According to BA, under the Act, the charge for directory listings must take into account the pro rata cost of gathering and maintaining the information, the cost of providing the information and the value of the listings themselves.¹

As to the reasonableness of its current charges for directory listings, BA takes issue with the Commission's conclusion that its rates are at the high end of telephone companies, based on a Cowles/Simba survey. BA includes an affidavit of one of its employees with a survey of current rates and processing/administration fees, which shows BA with the lowest rates and no fees.

BA requests that the Commission modify the Order to eliminate the requirements that a LEC provide access to its directory database to non-carriers, that a LEC provide directory listings at a cost-based rate, and that the rates be tariffed.

NYSTA

NYSTA agrees with BA that non-carriers should not be allowed access to LEC directory databases, citing Section 251(b)(3) of the Act. NYSTA states that the Act is clear in requiring LEC's to provide access to their databases only to competing providers and not to non-carrier directory publishers. NYSTA contends that the Commission has improperly expanded the scope of Section 251(b)(3) to include non-carriers.

NYSTA argues that there is no rational basis for the Order's requirement that directory database or subscriber list

¹ BA's petition at 13-14.

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information be provided as tariffed services. It continues that Section 251(b) requires database access only when a specific request is received from a competing carrier. NYSTA says that negotiation of those requests is contemplated by the Act. Similarly, NYSTA contends that subscriber list information is to be provided under negotiated agreements, not tariffs, under Section 222(e) of the Act.

NYSTA argues that the cost-based rate standard set out in the Order contravenes the rural LEC exemption in the Act which excuses rural LECs from providing directory database access in some circumstances. According to NYSTA, under Section 251(f)(1)(B), rural LECs are not required to provide database access until a bona fide request for unbundled network elements (UNEs) is made to the Commission and the Commission decides that the exemption should be removed. According to NYSTA, the Act contemplates negotiated agreements between the rural LECs and competitors, not tariffed services.

NYSTA requests clarification of the Order on the method for providing directory database information. It points out that the Order says "paper or electronic format" is required on page 2 and "hard copy and electronic format" on page 10. NYSTA is concerned that some LECs may be required to incur additional costs for putting the information in electronic format. It wants such costs to be borne by the party requesting access.

NYSTA also requests clarification that the subscriber list information, that must be provided, is the same as what the LEC currently provides. For example, some companies provide name and number, others also provide address. Again, NYSTA requests that the cost of providing information, in addition to what the LEC normally provides, be borne by the requesting party.

NYSTA requests clarification of the Order regarding provision of nonpublished listings. The Order does not require LECs to provide nonpublished listings because PSL section 91(5) prohibits sale or offering for sale the names or addresses of unpublished customers. NYSTA says in practice some LECs share this information, which is marked as not to be shared with the

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public. The LECs then respond "unlisted" rather than "no record" to a request for a nonpublished customer's number.

NYSTA requests that this sharing continue, subject to a commitment by competing providers of telephone exchange and toll service to respect the privacy indicator on the listing.

AT&T

ATT generally supports the Order but requests rehearing of the provision regarding nonpublished listings. ATT argues that directory information service providers should all have equal access to nonpublished and unlisted directory listings. ATT points out that when consumers request a nonpublished number from a LEC, the LEC operator can say that the customer has telephone service in the area but the customer's number is nonpublished. In contrast, the non-LEC provider will have no record of the customer and can only respond that there is no listing for that name. ATT stresses that this difference in the completeness of the database will make a qualitative difference to the customer, who will most likely choose the LEC provider with complete listings over the competitor with incomplete listings.

ATT requests that all companies be given the complete database on condition that the provider adhere to the Commission's Privacy Principles. ATT contends that since the nonpublished listings will be provided at no charge, PSL section 91(5) will not be violated.

ATT agrees that LECs should be required to file tariffs for directory database access and directory listings and argues that interconnection agreements should be modified to comply with the Order. It notes that BA refused to modify the terms of its interconnection agreement after the Order was issued.

PARTY REPLIES. RESPONSES AND COMMENTS

Bell Atlantic

In its Reply to the petitions for rehearing filed by NYSTA and ATT, BA supports NYSTA's proposal that the Order allow LECs to share nonpublished numbers in their directory databases.

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It says all the LECs have an interest in protecting the privacy of nonpublished customers. However, BA opposes ATT's proposal to require LECs to provide non-LEC DA providers with nonpublished information. BA argues that non-carriers are not subject to the Act or the PSL and their compliance with privacy principles cannot be assured. BA asserts that only LECs are required to provide directories to nonpublished customers and therefore only LECs need their names and addresses.

BA also disagrees with ATT regarding modifying interconnection agreements to reflect policies of the Order. It argues that any company, regardless of whether it has an interconnection agreement, may purchase services offered in a tariff.

ATT's Response

ATT favors continuation of the current practice of BA collecting subscriber listings for all New York State carriers. It says the public interest would not be served by changing this practice.

ATT disagrees with NYSTA's argument that electronic feed be considered customized data for companies that do not currently provide it in that form. It says that any costs associated with bringing a LEC's processes up to standards of an efficient LEC should not be recovered from new entrants.

Response of INFONXX to BA's Petition

INFONXX, a provider of directory assistance services, urges the Commission to deny BA's petition for rehearing. It says that full competition in the DA market awaits the removal of obstacles created by the exercise of monopoly power over the essential directory listing database enjoyed by the incumbent LEC.¹

INFONXX argues that the Order represents the Commission's independent effort to promote competition and is

¹ Response of INFONXX at 3.

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consistent with the Act. INFONXX contends that the Act allows states to supplement federal pro-competitive efforts to achieve the goals of the Act: maximizing competition and minimizing the need for regulation in the telecommunications marketplace. It cites Section 251(d)(3) of the Act as stating that the FCC shall not preclude the enforcement of any regulation, order, or policy of a State commission that establishes access and interconnection obligations of LECs; is consistent with the requirements of Section 251 and does not substantially prevent implementation of that section and the purposes of the Part. INFONXX concludes that the Commission's order may vary from the Act as long as it is consistent with the overarching principles of the Act. INFONXX continues that the Order is not inconsistent with the Act with regard to granting access to non-carrier competitors. It says no language in the Act prohibits states from promoting competition more broadly. INFONXX responds to the FCC Common Carrier Bureau's decision denying it access to BA's database because INFONXX is not a telecommunications carrier. INFONXX contends that the FCC's focus was on the Act's mandates, rather than what states are allowed to do. INFONXX adds that the decision is on appeal.

White and Yellow Book and ADP

White and Yellow Book and ADP oppose the LECs' petitions for rehearing. They favor incremental cost-based rates for directory listings, saying such rates were contemplated by the FCC when it called for "reasonable" rates. They also support tariffed rates, pointing out that directory listing rates are tariffed in other states. They also emphasize the unequal bargaining power between publishers and LECs, which have a monopoly on the only current and complete source of directory information. The publishers state that only if directory listings are provided at cost-based tariffed rates will a level playing field for directories exist and competition be advanced. They urge the Commission to deny the LECs' petitions.

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THE TARIFF FILINGS

Bell Atlantic

BA filed tariff revisions to: introduce Directory Assistance Listings Service (DALs) and Directory Publishers Listing Service (DPLS); modify rates for Directory Assistance Listings Transfer Service (DALT) to include provisions for compensating participating competing local exchange companies (CLECs) and independent local exchange companies (ILECs); and, make certain other modification to its directory listing data services.

DALS provides non-carrier DA service providers with subscriber name, address and telephone number data from BA's directory listing database. Data is provided in an initial extract via magnetic cartridge, with daily updates via electronic transfer. BA filed rates for DALS which, for the entire BA customer base, would result in a one time charge of \$292,539 for initial data extraction and monthly charges of \$21,753 for ongoing, daily updates.

DPLS is designed to provide directory listing data to directory publishers. Under BA's proposal, a publisher would provide BA with a list of area codes and direct three digits (NXX codes) of exchanges for which it wants data. BA would provide an initial database extract via magnetic tape, with optional periodic updates via magnetic tape. BA filed rates of \$0.20 per listing for each DPLS listing initially extracted. Rates for DPLS updates would be arrived at on an individual case basis.

For both DALS and DPLS services, CLECs and independent local exchange companies, whose listings are included in the information sold by BA, would receive compensation for their listings at the rate of \$0.03 per listing. The NY State Access Settlement Pool would act as a clearinghouse, and its costs would be charged to the non-carrier DA provider or directory publisher at the rate of \$0.0173 per listing. No information about customers with nonpublished or unlisted numbers would be included in either the DALS or the DPLS product.

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DALT is an existing directory listings database offering that is only available to ILECs and CLECs for providing DA services to their customers. It is not available to non-carriers that are in the business of providing DA services or publishing directories, but which do not also provide telephone service to their customers or represent such telephone service providers. DALT data includes information pertaining to nonpublished and unlisted customers. DALT is priced such that for all of BA's directory data (including data from participating ILECs and CLECs), an initial data extract would cost \$83,341, and ongoing, daily updates would cost \$3,866 per month.

BA's proposed rates for the DALS and DPLS appear to be in the range of three to four times the magnitude of its rates for DALT. The company indicates that DALT rates are set at incremental cost levels, but that the DALS and DPLS rates reflect a competitive market value associated with the directory database information.

ALLTEL, FTR and NYSTA

ALLTEL, FTR and NYSTA filed tariff revisions that introduce Directory Subscriber Listing Information Service. However, these tariffs include no rates, but merely indicate that rates will be developed on an individual case basis.

Citizens

Citizens filed a directory listings database service tariff containing proposed rates of \$1.00 per listing for the initial extract and \$2.50 per listing for updates. These rates appear to exceed incremental cost, although the company did not provide cost information with the filing.

INFONXX'S MOTION AND COMMENTS

On October 16, 1998, INFONXX, a non-carrier DA provider, filed a motion requesting an expedited review of BA's tariff filing. INFONXX states that the filing violates the Commission's directive that all DA providers be offered directory

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database services at rates set at cost and on a non-discriminatory basis. INFONXX argues that BA's cost studies exaggerate the cost of both the DALT and DALS service offerings. INFONXX also argues that BA's failure to include data on nonpublished listings in the DALS offering does not conform with the Order. INFONXX further argues that BA's directory database tariff filings improperly state or imply that BA owns the directory data. INFONXX asks that BA's directory listing database services tariff be revised so that non-carrier DA providers are, in all respects, treated equally to ILECs and CLECs.

INFONXX objects to BA's creation of a clearinghouse function for reimbursing competitive providers for their listings. It says charges for such a function are merely a way for BA to create costs to be borne by its competitors. INFONXX characterizes the clearinghouse concept as anti-competitive and wasteful as evidenced by the high prices.

BA'S REPLY TO INFONXX

On November 2, 1998, BA responded to the INFONXX motion. BA argues that price discrimination should not be an issue, as INFONXX may subscribe to DALT if it is either an agent for a LEC or CLEC, or becomes a CLEC itself. In addition, BA argues that under the law, differently situated entities may be charged different rates. The company claims that the rates for DALS are just and reasonable and in accordance with the Order.

As to the release of nonpublished information, BA takes the position that under the law it cannot release nonpublished customer information to non-carrier entities like INFONXX.

Regarding the matter of ownership of directory listings, BA indicates that INFONXX's concerns should be addressed by BA revising the relevant language of its directory listings database service tariffs to parallel that of its Electronic White Pages tariff. That tariff states, "Electronic

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White Pages database is and shall at all times remain the property of the Telephone Company.¹

In an effort to support its position that DPLS and DALS should be "market priced," BA also submitted affidavits indicating that there are multiple sources of customer listing data available to non-carrier DA providers, and the prices it proposes to charge for DALS and DPLS are competitive with those charged for the alternatives.

METRO ONE'S COMMENTS

Metro One, a national provider of competitive directory assistance, contends that competitors need to have directory listing data available at terms and costs similar to those that apply to incumbent companies. Metro One argues that BA's filing should be rejected as non-compliant with the order, in particular because the rates it has proposed are not cost-based. Metro One also argues that BA should be required to provide access to directory listings for all of Bell Atlantic North, and not merely those which are used for its New York State operations. Finally, Metro One urges the Commission to order refunds, with interest at BA's authorized rate of return, of all excessive charges paid under BA's directory listing database tariffs.

DISCUSSION

Access

Extending access to LEC directory databases to non-carriers is based on our authority under PSL sections 91 and 94. PSL section 94 gives the Commission general supervision of all telephone corporations. PSL section 91(1) requires all telephone corporations to furnish facilities that are adequate, just and reasonable. Section 91(3) provides that a telephone corporation may not give any undue or unreasonable preference to any person

¹ New York Telephone's PSC No. 900, Section 9, 2nd revised page 27, paragraph E.3(c).

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or subject any person to undue or unreasonable prejudice or disadvantage.

We have determined that encouraging competition in the areas of directory listings and directory assistance will enhance service to New York State customers. It is well established that the Public Service Commission may require incumbent utilities to provide competitors services upon the same terms and conditions that the utility serves itself. In this case, consistent with that doctrine, we are requiring LECs to provide access for the purposes of directory assistance service and directory publishing to non-LECs on the same terms and conditions that LECs provide such services to their affiliates and other LECs. This action will not only prevent discrimination but advance the public interest by promoting competition in directory assistance and directory listing markets as well as telecommunications in general. Nothing in the Act precludes us from taking this action.¹

Therefore, BA's and NYSTA's petitions on this point are denied.

Tariffed rates based on incremental cost

Directory databases are controlled by LECs because of their monopoly status. We have determined that the directory database business should be competitive. Pricing access to the database and directory listings at forward looking incremental costs allows LECs to earn a reasonable profit without taking advantage of their monopoly status. Offering the service on a tariffed basis at a nondiscriminatory rate fosters the ability of competitive providers to compete head to head with the LECs on a fair basis.

As to BA's arguments about pricing methodology, the Order establishes temporary rates. The question of pricing for permanent rates is referred to the Network Elements Proceeding.

¹ See 47 U.S.C. section 251(d)(3).

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Offering DA and DL access on a tariffed basis ensures that directory database access will be provided at cost-based and nondiscriminatory rates and will eliminate the unequal bargaining power of the LEC over competitive providers, as alleged by competitors. This offering will promote competition, consistent with Commission policy. Therefore, BA's and NYSTA's petitions for rehearing on this issue are denied.

If an interconnection agreement, by its terms, may be modified for superseding events, then the July 22, 1998 Order may require modifications to some interconnection agreements. If modification is appropriate, it is not sufficient for BA simply to file tariffs.

Format of directory information

NYSTA correctly points out that the Order requires database information to be provided in paper or electronic format at page 2 and paper and electronic format in the ordering clause at page 10. To clarify the Order, all LECs must offer database information in both paper and electronic formats. The requesting DA or DL provider may request the data in either or both formats and pay for the information accordingly.

In 1998, it is not unreasonable to expect telephone companies to provide directory data in both electronic and paper formats. If a company does not have electronic technology, it may request a waiver of this requirement from the Commission. However, the requirement of the Order is that all companies, at a minimum, will offer directory data in both electronic and paper formats. Similarly, listing information should be provided as it appears in the LEC's directory. If a customer has requested to be listed with name and number only, that is the data that should be provided.

Sharing of nonpublished customer data

PSL section 91(5) provides that: "No...telephone corporation shall sell or offer for sale any names and/or addresses of any of its customers whose listings have been

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omitted from the telephone company's published directory at the request of the customer." According to its legislative history, the purpose of this provision is to reduce the amount of unsolicited mail and contacts received by utility customers whose names and addresses are sold to businesses.

ATT points out that non-LECs are at a competitive disadvantage compared with LECs in providing information on nonpublished customers. The LEC can say "The number is unlisted" whereas the non-LEC will have no record of the customer. According to BA and NYSTA, the LECs are already sharing nonpublished customers' names, addresses and numbers with other LECs and, arguably, not violating PSL section 91(5) because they are not selling or offering the information for sale. The nonpublished number that is shared has a designation that it is not to be given out to the public. By that reasoning, some information about nonpublished customers, that is their name, address and the fact that they are unlisted, should be given to non-LECs without charge, for the purpose of providing directory assistance services. The address should be used for identification purposes only. If the DA caller does not have the address of the nonpublished customer, the DA service provider should not give it out. As a result, LECs will not have an advantage over non-LECs in providing DA.

LECs shall provide nonpublished customer names and addresses to non-LECs only on the condition that the receiver of the information agrees to adhere to the Commission's Privacy Principles in Case 90-C-0075 and agrees not to use such information for any purpose other than informing callers that a customer's telephone number is unlisted. Any use of such information found to be inconsistent with PSL section 91(5) or this order may result in loss of access and in a penalty action.

LECs may continue to share nonpublished numbers with their LEC directory assistance provider.

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Tariffs

None of the LEC directory listing database tariff filings, which have been received to date, comply with the July 22, 1998 Order. The LECs are directed to file revisions to these tariffs within 10 days of the issuance of this order to become effective upon filing, on a temporary basis, which bring them into compliance with the July 22, 1998 Order, as modified and clarified by this order.

BA and Citizens are required to file revised directory listings database service tariffs in which all rates, regardless of the type of customer (i.e., non-carrier DA provider, ILEC, CLLEC, or directory publisher), are set at incremental cost. In other words, the rate for DALS and DALT must be the same and must be set at incremental cost. The rate for DPLS must also be set at incremental cost. ALLTEL, FTR and NYSTA are directed to modify their tariff filings to include specific rates for directory listings database services, which are set at incremental cost. Any LECs aside from BA, which have not produced cost studies indicating the incremental cost of directory listings database services, or cannot do so in time to be used as a basis for the rates which must go into effect within 10 days of the issuance of this order, are directed to base their rates on BA's incremental costs.

With regard to including data about subscribers of nonpublished and unlisted telephone numbers in directory listing database products of the LECs for non-carrier providers of DA services, the data provided should include the names and addresses of such subscribers, but not their telephone numbers. All LECs are directed to modify their directory listing database service offerings accordingly.

INFONXX's allegations that BA's cost studies overstate the incremental costs of providing directory listing database services need not be further addressed here, but instead are referred to the Network Elements Proceeding, where permanent rate decisions will be made. With regard to the clearinghouse function proposed by BA in its tariff, charges for this function

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must be the same for all customers and must be based on incremental cost.

Metro One's request that the Commission direct NYT to expand its directory listing database products to encompass the entire Bell Atlantic North area is denied. While such an expansion might make economic and business sense, the Commission does not regulate BA directory data for customers outside of New York State.

CONCLUSIONS

The Commission properly ordered LECs to provide database access to all entities that request it for the purpose of providing DA service or publishing a directory. The temporary rates for directory database services shall be at incremental cost and provided in tariffs. Data should be offered in both paper and electronic formats.

LECs may continue to share nonpublished customer names, addresses and numbers with other LECs. The number shall have a designation that it may not be shared with the public. Names and addresses of nonpublished customers, without telephone numbers and with a designation that the customer's number is unlisted, shall be offered by LEC to all non-LEC entities that request it for the purpose of offering DA service, on the condition that the information be used for directory assistance service only and not be sold or used for other purposes and that the entity adhere to the Commission's Privacy Principles. Addresses may be used for identification purposes only.

If an interconnection agreement, by its terms, may be modified for superseding events, then the July 22, 1998 Order may require modifications to some interconnection agreements.

The petitions of NYSTA and ATT for rehearing and clarification are granted to the extent set out in this order, but in all other respects denied. The petition of BA is denied.

The LECs should file revised tariffs consistent with this Order.

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The Commission orders:

1. New York Telephone Company, d/b/a Bell Atlantic-New York, ALLTEL New York, Inc., Citizens Telecommunications Company of New York, Inc., Frontier Telephone of Rochester, Inc., and New York State Telecommunications Association, Inc. are directed to refile their directory database tariffs, the details of which are listed in Appendix 1, modified as described herein. The modifications should be filed within 10 days of the issuance of this order and shall become effective upon filing, on a temporary basis.

2. The petition for rehearing filed by Bell Atlantic is denied.

3. The petition for rehearing and clarification filed by New York State Telecommunications Association should be granted in part, in that the July 22, 1998 order is clarified to require LECs to provide directory database data in paper and electronic format. Local exchange companies shall share nonpublished customer names and addresses, but not telephone numbers, with non-LECs for the purpose of providing directory assistance services. The nonpublished information shall be provided subject to the requesting entity's agreement to abide by the Privacy Principles in Case 90-C-0075 and agreement not to use the information for any purpose other than informing directory assistance callers that the customer's telephone number is unlisted. Address information of nonpublished customers shall not be given out by directory assistance providers and shall be used for identification purposes only. Local exchange companies may continue their practice of sharing nonpublished customer names, addresses and numbers with each other. NYSTA's petition, in all other respects, is denied. Any violation of this order or PSL section 91(5) may result in loss of DA access and/or subject the violator to a penalty action under PSL section 25.

4. AT&T's petition for rehearing is granted in part, as set out in Ordering Clause 3 above. As to interconnection agreements, if by their terms they allow for modification for a superseding event, modification may be appropriate under this

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Order and the July 22, 1998 Order. AT&T's petition, in all other respects, is denied.

5. These proceedings are continued.

By the Commission,

(SIGNED)

DEBRA REMNER
Acting Secretary

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Appendix 1
Page 1 of 2

Administrative Details

Filing by: New York Telephone Company
Revisions to: P.S.C. No. 900 - Telephone

Preface

3rd Revised Page No. 9

Tariff Index

7th Revised Page No. 15

Section 9

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8th Revised Page No. 2

Section 9

Original Page Nos. 44 through 54

Revisions to: P.S.C. No. 914 - Telephone

Preface

5th Revised Page No. 1

Section 4

2nd Revised Page No. 35

3rd Revised Page No. 36

Revisions to: P.S.C. No. 916 - Telephone

Preface

1st Revised Page No. 2

Section 5

2nd Revised Page Nos. 74.3 through 74.6

1st Revised Page No. 74.7

2nd Revised Page No. 74.8

1st Revised Page Nos. 74.9 through 74.12

2nd Revised Page No. 74.13

Original Page No. 71.14

Issued: October 12, 1998

Effective: October 3, 1998

Filing by: ALLTEL New York, Inc.

Revisions to: P.S.C. No. 1 - Telephone

Contents

Second Revised Leaf No. 1

Section 7

Original Leaf Nos. 13 and 14

Issued: September 18, 1998

Effective: October 18, 1998

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Page 2 of 2

Filing by: Citizens Telecommunications Company of NY, Inc.
Revisions to: P.S.C. No. 1 - Telephone
Section 6
First Revised Page No. 1
Original Page Nos. 14 and 15

Issued: October 22, 1998 Effective: November 4, 1998

Filing by: Frontier Telephone of Rochester, Inc.
Revisions to: P.S.C. No. 1 - Telephone
Section 10
Contents
First Revised Page No. 1
Original Page No. 11

Issued: September 3, 1998 Effective: September 5, 1998

Filing by: NYS Telecommunications Association, Inc.
formerly known as NYS Telephone Association, Inc.
Revisions to: P.S.C. No. 1 - Telephone
Index
Third Revised Page No. 3
Section 12
Contents
First Revised Page No. 1
Second Revised Page Nos. 1 and 2

Issued: September 18, 1998 Effective: October 18, 1998

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**New York Telephone
A Bell Atlantic Company
1095 Avenue of the Americas
New York, N.Y. 10036**

**Sandra DiIorio Thorn
General Counsel
Legal Department
Phone (212) 395-6515**



January 19, 1999

**Honorable Debra Renner
Acting Secretary, Public Service Commission
State of New York
Three Empire State Plaza
Albany, New York 12223**

Dear Secretary Renner:

The tariff schedule shown in the attachment to this letter and issued by New York Telephone Company is transmitted for filing in accordance with the requirements of the Public Service Commission, State of New York, effective January 19, 1999 inasmuch as the Commission's office is closed January 18, 1999.

This filing is made in compliance with the Commission's January 7, 1999 "Order Resolving Petitions for Rehearing and Clarification of July 22, 1998 Order Regarding Directory Database Issues and Refiling of Tariffs" in Case Nos. 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036 and 90-C-0075.

The proposed tariff revisions would amend Tariffs P.S.C. Nos. 900 and 916--Telephone to provide for the following:

- Modification to the P.S.C. No. 900 Tariff of the Directory Assistance Listings Service (DALIS) and the Provision of Listings to Directory Publishers (DPLS) tariff provisions to reflect that the Directory database information will be provided in paper or electronic formats;**
- Clarification of the P.S.C. Nos. 900 and 916 Tariffs of the provisions for DALIS and Directory Assistance Listings Transfer (DALT) to reflect that non-published listings will be included in the Directory Listings database and that Directory Assistance Providers (DASPs) and Telecommunication Carriers (TCs) must abide by the Privacy Principles in Case No. 90-C-0075 and associated liability provisions;**

- Adjustment to the P.S.C. No. 900 Tariff of the DPLS, DALs rates and the associated Clearing House Compensation per listings rates to reflect the incremental cost based rate; and
- Minor corrections in text were made.

The Company respectfully requests that newspaper publication requirements be waived for this filing, in view of the fact that copies of the filing are being sent to all active parties to Case Nos. 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036 and 90-C-0075.

Very truly yours,



Attachment

cc: All Active Parties to Case Nos. 94-C-0095, 95-C-0657, 91-C-1174. 96-C-0036 and 90-C-0075